

**LEGAL REVIEW AGAINST COPYRIGHT VIOLATIONS ON SOCIAL MEDIA APPLICATION USERS BIGO LIVE****Valdano Petra Valentino Ririmasse<sup>1</sup>, Syamsuddin Baco<sup>2</sup>, Baliana Amir<sup>3</sup>, Suarlan Datupalinge<sup>4</sup>, Andi Bustamin Dg. Kunu<sup>5</sup>, Saharuddin<sup>6</sup>, Sahlan<sup>7</sup>**<sup>1</sup>Faculty of Law, Tadulako UniversityJl. Soekarno Hatta Km. 9, Tondo, Palu, Central Sulawesi, 94148, Indonesia  
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**Abstract**

*The formulation of the problem in this research is 1. What are the legal arrangements for using the Broadcasting Live service on the Bigo Live application when screening movies in theaters?. 2. Can the use of Broadcasting Live services when screening films in theaters be categorized as a copyright infringement on films or cinematography?. Normative law research uses normative case studies as products of legal behavior, for example, reviewing laws. His study in society is the law conceptualized as a norm or rule that applies in the community and becomes a reference for everyone's behavior. So that normative legal research focuses on the inventory of positive law, legal principles and doctrines, legal findings in cases in concreto, legal systems, synchronization levels, legal comparisons, and legal history. The conclusions in this study are: There are no specific regulations regarding Broadcasting Live when screening movies. However, there are legal products related to the issue of Broadcasting Live when screening films,*

*namely: In Law Number 32 of 2002 concerning Broadcasting it has not accommodated the legal rules regarding Broadcasting Live, there is only an explanation of the definition of broadcasting which is the activity of Broadcasting Live in Article 1 points 1 and 2. Law Number 11 of 2008 concerning Electronic Transaction Information further regulates broadcasts from Broadcasting Live, broadcasting through Broadcasting Live, use of Broadcasting Live services.*

**Keywords:** *Bigo Live Media; Copyright infringement*

## INTRODUCTION

Intellectual property rights are the rights to do something on the intellectual property regulated by applicable norms or laws. Intellectual property rights result from the human brain implemented in the form of creations in works, art, designs, and inventions that can be utilized in human life. The results of the brain are then formulated as intellect.

Intellectual Property later became Intellectual Property Rights, and the last term used was Intellectual Property Rights. The term intellectual property rights come from the word *Intellectual eigendomrechts* (Dutch) in the Continental European system. The term intellectual property rights have long been used, especially by several authors such as Sudargo Gautama, CST Kansil, Muhammad Djumhana; in his book published in the 1990s, many use the term Intellectual Property Rights.

In Article 1, point 1 of Law Number 28 of 2014 concerning Copyright, it is regulated that, "Copyright is the exclusive

right of the creator which arises automatically based on declarative principles after a work is manifested in a tangible form without reducing restrictions in accordance with statutory provisions."Indonesia is also rich in various kinds of culture, and arts are known in a copyright, including songs, music, batik motifs, dances, written works, etc. Copyright as an exclusive right automatically obtained due to declarative principles after the creation is realized (Article 1 point 1 of Law Number 28 of 2014 concerning Copyright, starting now written UUHC) (Ministry of Law and Human Rights, 2014). For example, art in Palu City, one of the works of genetic heritage, Kakula is one of the most famous musical instruments in Central Sulawesi traditional music.

Copyright consists of moral rights and economic rights. Moral rights are eternally attached to the creator, and economic rights are the exclusive rights of the creator or copyright holder to obtain financial benefits from his creation. These economic benefits will be obtained when

the copyright holder or creator grants a license to a third party to use, publish, or reproduce their copyrighted work by obtaining compensation called royalties. The development of copyright arrangements before the TRIP's Agreement in Indonesia Since 1886, the Berne Convention has been enacted among countries in the western region of Europe, which is intended to protect literary and artistic creations. The tendency of Western European countries to become parties to this Convention, The views often expressed in copyright seminars postulate the need for "freedom" to use creations free of charge to help educate the nation's children to be wise, intelligent, and cultured. The target is books and other scientific writings. In his mind, such texts should be reproduced as freely as possible without the permission or consent of the author and the payment of royalties. Under normal conditions, such an act is a violation of the law, but here we discuss matters that are normatively qualified as a violation of the law but wish to be legalized; therefore, the Copyright Law has been revised again with the enactment of Law No. 12 of 1997. This change is more due to the consequences of the Indonesian government has ratified the approval of the establishment of the World Trade Organization. One of the aspects

contained in the agreement concerns the issue of Intellectual Property Rights.

In terms of copyright acknowledgment, it is since the birth or since the creation of a work, meaning that there is legal protection for the creator's rights even if the creator does not register his product with the Ministry of Justice c/q the Directorate General of Intellectual Property Rights.

According to Soetan Moh. Shah in a paper at the congress. According to him, Auteursrecht's translation is the author's right, but it is shortened to Copyright for simplification and practical purposes. From the terminology of copyright, copyright itself arises because there is a creator, and there is a copyrighted work or creation. However, the origin of the product of invention was born, the author quoted the sentence written on the ceiling of the dome of the roof of the WIPO Headquarters building in Geneva, which was summarized by Arpad bogisch, Director General of WIPO, which Eddy Damian read on his research visit to Geneva, it reads " Human genius is the source of all works, of art and inventions." These works are the guarantee of a life worthy of men. It is the diary of the state to ensure with diligence the protection of the arts and inventions, which means, "Human

intelligence is the source of all works, art, and inventions. "These works are a guarantee of a decent human life."

The rationale for the need for legal protection of this creation cannot be separated from the dominance of natural law doctrine thinking, which emphasizes the human factor and the use of reason as known in the civil law system, which is the legal system adopted in Indonesia.

Copyright is a private right. Civil rights are attached to the creator. The creator may be an individual, a group of people, a public legal entity, or a private one. Copyright is born on the creation of the creator. Inventions arise from "thought" and "thought of the heart." Copyright must be taken from human creativity, not what has existed outside the activity or the results of human creativity.

In March 2016, the Bigo Live application was first released in Indonesia. Bigo Live is a social media application where users can broadcast their activities live (live streaming) through the Live Broadcasting feature.

Bigo Live is also an application that allows users to earn money through live streaming and has many viewers; if the viewers give gifts (the term for giving gifts in the Bigo Live application), it will be accumulated into Beans and converted

into Diamonds.

If the minimum number of Diamonds has been collected, you will get money from the Bigo Live application developer, Bigo Technology PTE.LTD. Based on the above background, the author wants to conduct research and studies on legal reviews of copyright infringement in cinematographic works through the Bigo Live social media application.

### **Formulation of the problem**

1. When screening movies in theaters, what are the legal arrangements for using the Broadcasting Live service on the Bigo Live application?
2. Can the use of Broadcasting Live services when screening films in theaters be categorized as a copyright infringement on films or cinematography?

### **ANALYSIS AND DISCUSSION**

#### **Legal Regulations Against the Use of Live Broadcasting Services on the Bigo Live Application When Screening Movies in Cinemas**

The Bigo Live application is a Broadcast application with the Broadcasting Live feature to transmit data to various points in the form of live streaming video specifically for Android and iOS smartphone users. This application is an application to broadcast one's activities

online via a smartphone and can be watched by other Bigo Live members and receive responses or comments from Bigo Live members who are watching at the same time. The Broadcasting Live feature in the Bigo Live application can be seen audio and visually by other Bigo Live members; this provides an opportunity for users to be more creative, for example, by showing their talent for dancing, singing, drawing, and so on.

Anyone can become a Bigo Live user; however, please note that if a user wants to use the Broadcasting Live service on the Bigo Live application, the user must first register to become a user of the Bigo Live social media application. This also applies to other applications requiring approval of the terms and conditions to become an application user. Suppose someone wants to become a user of the application. In that case, they need to register to become a user of the application to use the application according to the interests of their respective users. Users in Bigo Live are divided into two, namely Broadcasters (users who are broadcasting) and Viewers (users who watch broadcasts).

One of the advantages of this application is social media that can be used to make some money from broadcasting di-

rectly. If the viewers give a Gift (the term for giving gifts through the icon in the application), it will be accumulated in Beans. These beans must be converted in the form of Diamonds. Ten Beans is equivalent to 3 (three) Diamonds; a total of 210 Beans equals 1 USD or Rp. 14,000

***Legal Arrangements Regarding Live Broadcasting are reviewed from Law Number 32 of 2002 concerning Broadcasting.***

In Law Number 32 of 2002, there are no detailed rules regarding broadcasting services based on mobile social media applications. However, in this law, there are several articles related to broadcasting. In Article 1 point 1 and point 2 it is regulated that:

1. Broadcast is a message or series of news in the form of sound, image, or sound and image or graphics, characters, whether interactive or not, which can be received through broadcast receiving devices.
2. Broadcasting is the activity of transmitting broadcasts through broadcasting facilities and/or transmission facilities on land, at sea, or in space using a radio frequency spectrum via air, cable, and/or other media to be received simultaneously and simultaneously by the public with broadcast re-

ceiving equipment.

From the explanation above, broadcasting via Live Broadcasting can be a broadcast. However, if you look at the definition of broadcasting, broadcasting through Broadcasting Live cannot be considered as broadcasting because if seen, broadcasts via Live Broadcasting are not received simultaneously and simultaneously by the public, but can only be received by Bigo Live users, and even then cannot be received simultaneously. And simultaneously by Bigo Live users because another account is needed to add or follow the account that displays the broadcast activity. So only users who have followed broadcaster accounts receive broadcasts through the Live Broadcasting feature in the Bigo Live application. Furthermore, Article 13 Paragraph (1) stipulates that: Broadcasting services consist of:

- a. radio broadcasting services; and
- b. Television broadcasting services.

Based on Article 13 Paragraph (1), only broadcasting through radio and television is regulated by law. In Law Number 32 of 2002, it is held that radio broadcasting is a mass communication medium of hearing that distributes information in the form of sound, and television broadcasting is a mass communication medium

of hearing and sight that transmits data in the form of sound and images. While broadcasting through social media cannot be said to be a broadcasting service in society, the principle of social media is not as a broadcasting service but as a medium of communication between individuals. According to Prof. Judhariksawan, a Lecturer of Broadcasting Law, Faculty of Law, Hasanuddin University, specifically stated that Bigo Live broadcasts are more accurately said to display broadcasts instead of broadcasting broadcasts because broadcasting activities are carried out not on television and radio but social media. He added that, if you look at the definition of broadcasting contained in Article 1 point 2 of Law Number 32 of 2002 concerning Broadcasting,

***Legal arrangements regarding Broadcasting Live are reviewed from Law Number 11 of 2008 concerning Electronic Transaction Information. (As has been amended to Law Number 19 of 2016 on Amendments to Law Number 11 of 2008 concerning Electronic Transaction Information).***

Law Number 11 of 2008 concerning Electronic Transaction Information is a legal product that regulates electronic transaction information technology when looking at the Bigo Live social media application; of course, it is related to electronic transaction information technology.

According to Mr. Denden, an employee of the Legal Division of the Directorate General of Applications and Information Technology, he stated that "for Indonesia, the regulation regarding social media in general and Live Broadcasting services in the Bigo Live application, in particular, is still regulated in Law Number 11 of 2008 concerning Electronic Transaction Information, but has not been specifically regulated regarding social media." In this law, several articles regulate the forms of system components of the Bigo Live social media application. Article 1 point 1 stipulates that:

In this article, broadcasts from Broadcasting Live can be categorized as electronic information in the form of electronic data because broadcasts contain text, sounds, images, signs, numbers, and symbols as regulated in Article 1 point 1 of law number 11 2008. Mr. Denden stated, "The word content simplifies broadcasting Live broadcasts which are categorized as electronic information." The content in question is not from Bigo Live, but Bigo Live users because Bigo Live is a User Generate Content (UGC) type application.

**The Use of Live Broadcasting Services When Screening Movies In Cinemas Categorized As Copyright Infringement On Films Or Cinematography**

In determining whether the use of Live Broadcasting services when screening films in theaters can be categorized as a copyright infringement on films or cinematography, first look at copyright is the exclusive right of the creator that arises automatically based on declarative principles after work is realized in tangible form without reducing restrictions according to the provisions legislation. Copyright consists of two critical elements, namely, moral rights and economic rights.

***Violation Of Moral Rights On The Broadcasting Live Service When Screening Films In Theaters As A Copyright Infringement On Films Or Cinematography.***

Moral rights are absolute rights and are eternally attached to the creator of his creation. The rights that are tied based on Law Number 28 of 2014, which include the right to:

1. Continue to include or not include their name on the copy in connection with the public use of their creation;
2. Using his alias and pseudonym;
3. Changing his creation according to the etiquette in society;
4. Change the title and sub-title of the product; and
5. They were defending their rights in the event of a distortion of the work, mutilation, modification of

the work, or anything detrimental to their honor or reputation.

Moral rights are also rights that protect the personal interests or reputation of the creator. The use of Live Broadcasting services when screening films in theaters is a copyright infringement by announcing and duplicating films where the film is a work that has been classified as a protected work. There is a violation of the moral rights of the creator, namely the use of Live Broadcasting services when filming in theaters does not maintain the author's rights in modifying the work in the form of a violation of the moral rights of the work, which can also be said to violate the rights that protect the personal interests of the creator. When screening films in theaters, Live Broadcasting is said to have modified the work because the film is no longer the same as what the creator wanted the film to be. For example, if the use of the Broadcasting Live service is as happened in the case, where previously the film creator made his creation intact when the user of the Broadcasting Live service did an act that made the film no longer complete since it was created. The film showed also did not include the name of the film's creator. It can be said that the use of the Live Broadcasting service does not protect the rights of the author in mod-

ifying the work.

### **Violation Of Economic Rights On Live Broadcasting Services When Screening Films In Theaters As A Copyright Infringement On Films Or Cinematography.**

In the previous discussion, the violation of moral rights in using Broadcasting Live services has been discussed. In discussing the moral rights of work, economic rights cannot be separated because these two rights are the most critical elements in copyright if moral rights are rights that are permanently attached to the creator of his creation. Economic rights are exclusive rights for copyright holders to benefit from the invention. In the previous discussion, the use of Live Broadcasting services when screening films in theaters has violated the moral rights of films, then the use of Live Broadcasting services when screening films in cinemas or cinematography is a violation of economic rights.

So when someone infringes but the scale of the copy is small, and the scope of distribution is narrow. Article 113 is only said to be a copyright infringement, but if the copying is significant and the range of distribution is wide, it can be said to be piracy. Seeing what happened in the case of using the Broadcasting Live service when a movie was shown in theaters, the act was only considered a copyright in-



fringement. Even though social media has a broad scope, if the reproduction is not large, it is still considered a copyright infringement. Mr. Andi sees social media as an inclusive community. If a copyright infringement is considered piracy, it takes 20% of social media users to enjoy works that are reproduced without these rights.

## CONCLUSION

1. There are no specific regulations regarding Broadcasting Live when screening movies. However, there are legal products related to the issue of Broadcasting Live when screening films, namely: In Law Number 32 of 2002 concerning Broadcasting it has not accommodated the legal rules regarding Broadcasting Live, there is only an explanation of the definition of broadcasting and broadcasting which is the activity of Broadcasting Live in Article 1 points 1 and 2. Law Number 11 of 2008 concerning Electronic Transaction Information further regulates broadcasts from Broadcasting Live, broadcasting through Broadcasting Live, use of Broadcasting Live services,

2. Then the use of Live Broadcasting services when screening films in theaters can be categorized as a copyright infringement on films or cinematography

because the use of Live Broadcasting services has violated moral and economic rights. These rights are the most crucial element in copyright. In violation of moral rights, Live Broadcasting services can be categorized as copyright infringement when screening films in theaters. Meanwhile, in violation of economic rights, the Broadcasting Live service announces, reproduces, broadcasts the work (film) without the creator's permission, and uses the service for commercial purposes.

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